



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.06.2019

CORAM

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THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) No.906 of 2019

and

C.M.P (MD) .No.5236 of 2019

G.Thavamani

... Petitioner/Petitioner/4th Defendant

-Vs-

1.R.Ramesh Kumar ...1st Respondent/1st Respondent/Plaintiff

2.T.Mamalla Mahendiran@T.M.Mahendran

3.T.Padmavathy Nachiar

4.S.Radhakrishnan

5.P.Mangalanathan

6.Ravi@Rathinavelu Thevar

7.The President

MDH-HSG-90

Madurai North Co-operative

Housing Society

Door No.27, Vaidhianatha Iyer Street

Shenoy Nagar

Madurai 620 020

8.Pandian Co-operative Stores

(BB 022) C/o.Madurai District

Pandian Co-operative Wholesale

Stores Ltd.,

Shop No.27, Ground Floor

Vaithiyanatha Iyer Street

Shenoy Nagar

Madurai Town 620 020

...Respondents 2 to 8

/Respondents 2 to 8

/ Defendants 1 to 3, 5,6 & 7

(Dispense with notice given
to the Respondents 2 to 8)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and executable order dated 29.01.2019 passed in I.A.No.318 of 2018 in O.S.No.232 of 2015 on the file of the I Additional District Judge, Madurai.



For Petitioner : Mr.R.Janakiramulu

For R1 : Mr.M.V.Venkataseshan

O R D E R

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This Civil Revision Petition has been filed against the fair and executable order dated 29.01.2019 passed in I.A.No.318 of 2018 in O.S.No.232 of 2015.

2.The learned counsel for the petitioner would submit that the petitioner is the fourth defendant in the suit in O.S.No.232 of 2015. The suit is one for partition and it same was posted for examination of defendants side witness on 03.11.2018. The defendants 1 to 3, 5, 6 and 8 remained *ex parte*. The seventh defendant is the tenant. The petitioner herein alone is the contesting defendant in the suit. The grievance of the petitioner is that since she is aged about 67 years and she underwent open heart surgery, she could not stand and walk for a long time. Hence, the petitioner filed an interlocutory application in I.A.No.318 of 2018 to examine her son, namely G.Selvakumar on the side of the fourth defendant, before examining the fourth defendant, as he is aware of the entire proceedings. After perusing the oral and documentary evidence, the learned trial Judge has dismissed the I.A, holding that if the petitioner is not able to appear before the Court, Advocate Commissioner can be appointed to record her evidence and therefore, I.A.No.318 of 2018 is devoid of merits. Against the said order, the petitioner is before this Court.

3.The learned Counsel for the respondent would state that he has no objection for allowing the above Civil Revision Petition. However, he would pray before this Court for early disposal of the suit.

4.Recording the above submission made by the learned counsel for the respondent, the impugned order dated 29.01.2019 made in I.A.No.318 of 2018 is set aside and the petitioner's son shall be enquired on a particular day which the learned Judge fixes and the petitioner's son is directed to be present before the Court below on that day for enquiry. The learned I Additional District Judge, Madurai is directed to dispose the suit in O.S.No.232 of 2015 on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.



5. With the above directions, this Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

Sub Assistant Registrar (CS)

msa

To,

I Additional District Judge
Madurai

+1CC TO M/S.M.V.VENKATASESHAN, ADVOCATE, SR.NO. 69810

+1CC TO M/S.R.JANAKIRAMULU, ADVOCATE, SR.NO. 70013

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BUC (10.07.2019) 3P 4C